



What are Counterfeiting and Piracy Costing the American Economy?



NCF

NATIONAL CHAMBER FOUNDATION

What are Counterfeiting and Piracy Costing the American Economy?

National Chamber Foundation®
1615 H Street, N.W.
Washington, D.C. 20062
www.uschamber.com/ncf
tel 202-463-5500
fax 202-463-3129

©Copyright 2005

Breadth of the Problem

An Oceanside, California, 13-year-old sustained severe injuries from an explosion caused by his cell phone. The explosion happened with such force that fragments of the phone were lodged in his face and on the ceiling of his family's home.¹

An unsuspecting woman noticed a strange taste to her cholesterol-lowering drug Lipitor. She phoned Pfizer's customer hot line, sparking an investigation resulting in the recall of more than 16.5 million pills nationwide.²

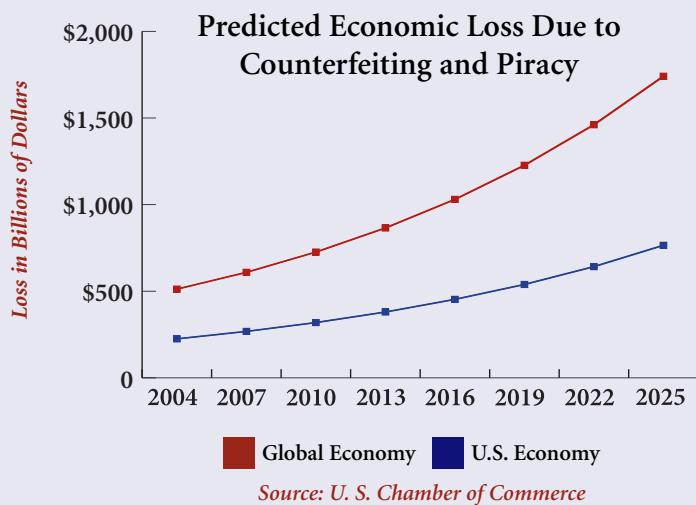
A small business owner in Indiana is losing an estimated \$10 million a year in lost sales, not to a competitive product but to his own brand that has been expertly copied—down to the business cards of the sales representatives.³

These incidents have common threads—an often underestimated threat, counterfeiting and piracy.

In the Information Age, intellectual property (IP) is the “gold standard.” It must be protected as it is the cornerstone for economic prosperity in this new era. The problem goes by many names—counterfeiting, piracy, or knockoffs. But the problem of IP theft is not going away.

In fact, it is getting worse. Experts say that it is growing exponentially and with sophistication and brazen boldness.

Increased access to technology and other resources has armed these criminals with the means to pirate the latest goods and stay one step ahead of the law. Stealing has become big business.



Counterfeiting and piracy are costing the U.S. public billions of dollars every year. But the problem is more insidious than that. It damages investment and innovation; has potentially devastating economic consequences for small businesses; puts a severe strain on law enforcement agencies; nearly always escapes taxation; threatens public health and safety; diverts government resources from other priorities; and has links to terrorism and organized crime.

Counterfeiting and piracy, once viewed as “victimless” crimes mainly consisting of selling cheap knockoff sunglasses and watches, have mushroomed in recent years to endanger every product that is created. From dangerous substandard replacement parts for airplane engines to ineffective

Counterfeiting and piracy are costing the United States \$200 to \$250 billion each year.

pharmaceuticals to illegally copied compact discs manufactured by the millions in clandestine factories around the world, sales of counterfeit and pirated goods are skyrocketing. Profits from these illicit sales are being funneled worldwide into the pockets of everyone, from groups associated with known terrorists to organized crime elements.

The problem of counterfeiting and piracy goes beyond the manufacture, distribution, and sale of cheap, unauthorized goods. It threatens our national security, lessens the value of legitimate brand names, and erodes the profits of nearly every business in America.

- Annually, approximately 5% to 7% of world trade is in counterfeit goods, according to the FBI, Interpol, and World Customs Organization estimates. That's the equivalent of as much as \$512 billion in global lost sales. Of that amount, U.S. companies lose between \$200 billion and \$250 billion.⁴
- Counterfeit merchandise is responsible for the loss of more than 750,000 American jobs, according to the U.S. Customs and Border Protection.⁵

- The World Health Organization (WHO) has estimated that counterfeit drugs account for 10% of all pharmaceuticals. In some developing countries, WHO pegs that figure at 60%.⁶

For these reasons and more, it is time to act.

For every small seizure of counterfeit merchandise, top law enforcement officials say, several more container loads are entering this country. It is a flood of illegal, unlicensed, unregulated, and dangerous products that threaten to wash up on the shores of every legitimate business and industry in this country.

If your idea of fake goods is a pair of cheap bogus sunglasses, law enforcement officials say that your perception of the problem is perhaps a generation out of date. There are fake sunglasses and handbags and watches, to be sure. But the problem is far larger and more economically damaging. Today, counterfeiting and piracy run the gamut and include dangerous and unlicensed medicines, faulty computer chips and substandard batteries, compact discs and bogus recordings and movies, inkjet cartridges, golf



Former Attorney General John Ashcroft (far right) met with a small group of concerned business leaders to discuss ways to protect the nation's intellectual property—an increasingly important asset of the Information Age.



clubs, windshields, auto parts, cosmetics, soaps, shampoos, foodstuffs, and virtually anything else that can be manufactured, traded, imported, or sold.

"We've seen a massive increase in the last five years, and there is a risk that it will spiral out of control," Anthony Simon, chief of marketing for Unilever Bestfoods, told *Business Week* magazine recently. "It is no longer a cottage industry."⁷

Top law enforcement officials recognize the growing threat. On March 31, 2004, former Attorney General John Ashcroft created a task force in response to the growing threat of IP crime. The task force published recommendations in October of last year, yet Ashcroft admitted that "there is much more to be done."⁸

Yes, there is.

No industry is safe from this escalating problem.



Find the fake. Can you tell the real from the fakes in the photos above?

MAKING A DIFFERENCE

The world's largest business federation, the U.S. Chamber of Commerce, is taking action to thwart the growing global threat of counterfeiting and piracy.

"Counterfeiting and piracy deprive governments of tax dollars, undermine hard-earned brand reputations, finance organized criminal networks, put consumers' health at risk, and reduce corporate earnings," says Thomas J. Donohue, president and CEO of the U.S. Chamber. "The Chamber will continue to work to put these criminals out of business."

And it's not just big business that is impacted. Even your local pharmacist is taking note. "I've been in this business for 40 years," said pharmacist Lowell Anderson of Bel-Aire Pharmacy in White Bear Lake, Minnesota. "I have less confidence in the integrity of the supply line today than ever before. It scares me."⁹

To achieve its objective, the Chamber is committed to implementing an integrated three-part strategy.



Part one is education. The Chamber is working to educate businesses, the media, and lawmakers about the growing threat of this issue.



Part two is enforcement. The Chamber is committed to bringing these criminals to justice. It is working with manufacturers, retailers, and law enforcement to disrupt the ability of counterfeiting networks to use legitimate distribution channels.



Part three is country-specific initiatives in priority countries, beginning in China and Brazil and expanding to Korea, India, Russia, and to



**Chamber President and CEO
Thomas J. Donohue is leading the
business community's fight against
counterfeiting and piracy.**

other countries where the problem is prevalent.

In addition, the Chamber is leading the Coalition Against Counterfeiting and Piracy (CACP) to coordinate the efforts of the business community to stop the problem of counterfeiting and piracy.

"The Chamber is working with every industry battling the growing threat of piracy and counterfeiting. We must approach it from a business-wide perspective and CACP helps us achieve this," says Chamber Senior Vice President David Hirschmann.

CACP is committed to increasing the understanding of the negative impact of counterfeiting and piracy by working with Congress and the administration to drive greater governmentwide efforts to address this threat.

BEYOND THE NUMBERS

"The United States' society and economy are built on an assumption of fairness and equal opportunity. One person, one vote. A level playing field. Fair taxation. That's what makes this country great," says the Chamber's Tom Donohue.

Fairness and equal opportunity are tenets of American life balanced by the equal and vigorous enforcement of laws. Unfortunately, lax enforcement of sanctions against counterfeiters and pirates who are abusing copyright and intellectual property rights (IPR) laws is threatening to erode these basic principles of American business life. All

U.S. businesses and entire industries are fighting for their economic lives in today's global marketplace.

"People who illegally download a movie online ... are not 'pirates' or 'spies,'" former Attorney General Ashcroft said. "They are thieves, pure and simple. And these thieves are a threat to the economic strength and innovative spirit of our nation."¹⁰

Piracy undermines the foundation of the American free enterprise system. A pirated compact disc means more than lost revenue for the movie or recording studio. It means no royalties for actors, singers, or songwriters. It means no tax revenue for schools, communities, and states. It means that your local music store might go out of business. It means lawlessness has taken over where once a fair system of economic rewards existed.

"You are creating a world where brands mean nothing. That's a threat to every business that is creating a brand," said Rick Lane, vice president of government affairs for News Corp., parent company of Fox Television and DirecTV, which loses millions each year because of pirated TV shows, CDs, DVDs, and other forms of piracy. Lane adds, "This is about more than getting a pair of \$10 sunglasses. It's about what kind of future we want our kids to live in."¹¹

In the past, companies viewed competing with fakes as a cost of doing business. Now it has moved far beyond that to threaten the viability of not just businesses but of industries.

We must act now to fight the problem. In fact, we can't afford not to.

WHAT DOES COUNTERFEITING COST?

That \$40 fake designer handbag being sold on the street is no bargain. In fact, it is robbing America of jobs, tax revenue, and perhaps entire businesses. Even worse, the proceeds from the sale could be going to finance international terrorists.

The ramifications of piracy and counterfeiting are myriad. They affect the United States in major ways. The cost of IP crimes hurts this country in four broad categories: direct losses to the economy, financing terrorism through illegal profits, threats to consumer safety, and the loss of American jobs.

The Chamber is taking a stand on behalf of the business community.

ECONOMIC LOSSES

Economic losses include direct and indirect costs to both businesses and government. As mentioned, the FBI estimates that U.S. companies lose between \$200 billion and \$250 billion a year in sales.

It's not just lost sales. It's also lost tax revenues. New York City alone loses \$1 billion annually in tax revenue, according to New York City Comptroller William C. Thompson Jr.¹² By comparison, losses from bank robberies for the entire nation amount to less than \$50 million a year.¹³

"While [consumers] may pay a fraction of the cost of goods like a fake Coach bag that may look good, the people of New York City suffer," said Thompson. "There is a ripple effect. You can save in the short run, but in the long run there is a loss."¹⁴

Thompson is right. Although he's speaking only about New York City, the economic ripple continues through lost jobs and tax revenues across the country—and around the globe.

Annual global losses by specific industries are staggering. Here are some industry-specific economic losses, which are just part of the estimated \$512 billion in global sales lost to counterfeit goods:

- Pharmaceutical fakes are estimated at \$22 billion.¹⁵
- Software piracy is estimated at \$12 billion.¹⁶

- Apparel and footwear losses are estimated at \$12 billion.¹⁷
- Spare auto parts cost legitimate manufacturers \$12 billion.¹⁸
- Artistic recordings cost \$4.6 billion.¹⁹
- Motion picture losses are \$3.5 billion.²⁰

FINANCING TERRORISM

Profits from counterfeiting and piracy are helping to fund terrorists, officials who track such financial dealings say. Recently seized Al-Qaeda training manuals recommend the sale of fake goods as a financing source for illegal activities, according to Interpol.²¹

Secretary General of Interpol Ronald K. Noble, in testimony to the U.S. House of Representatives Committee on International Relations, gave specific examples of links between IPR crimes and terrorist organizations. Included in the groups named were Al-Qaeda, Hezbollah, Chechen separatists, North African radical fundamentalists, and known terrorist groups in Kosovo and Northern Ireland.²² The 1993

Did You Know?

The 1993 World Trade Center bombing was partially financed through the sale of counterfeit goods, particularly fake Nike T-shirts sold from a store on Broadway.²³



World Trade Center bombing was partially financed through the sale of counterfeit goods, particularly fake Nike T-shirts sold from a store on Broadway.²³

CONSUMER SAFETY

Simply put, consumers do not know what they are getting when they accidentally buy fake goods. There are no guarantees, no legal recourse, and little chance of recovery when accidents occur because of fakes. There are scores of news reports about exploding batteries, doctored pharmaceuticals and foods, and substandard auto and airplane components. There are reports of faulty medical devices, dangerous cosmetics and skin products, fake shampoos and soaps, doctored teas, dangerously defective and faulty batteries that have been linked to explosions in cell phones, and even fake and dangerous baby foods.



What makes this problem even more dangerous is that consumers simply don't know about it. It's one thing to knowingly spend \$20 for a poorly produced fake Rolex watch when the name on the face says "Rolez." Most consumers know it's

This is not just an economic issue—counterfeiting and piracy threaten human lives.



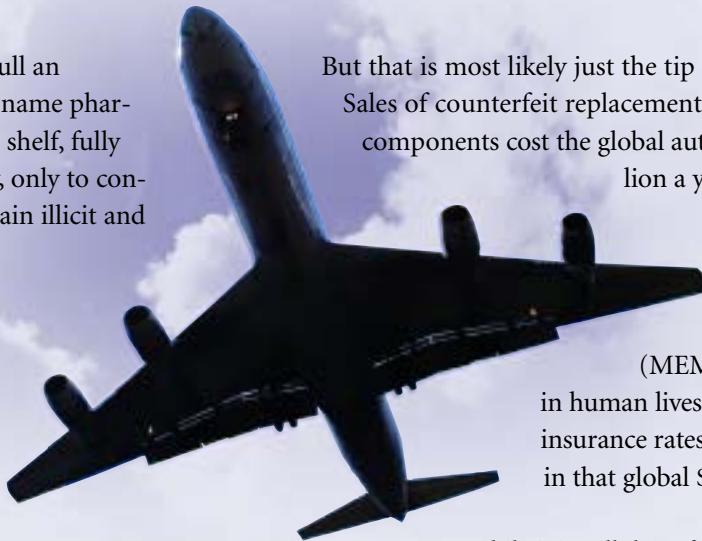
phony. It is quite another to pull an authentically packaged brand-name pharmaceutical or cosmetic off the shelf, fully expecting brand-name quality, only to consume a product that may contain illicit and often dangerous chemicals.

The Food and Drug Administration (FDA) in May 2003 recalled 16.5 million doses of fake Lipitor, a popular drug used by millions to control high cholesterol. But top FDA officials admit that what they catch is only a fraction of the total of counterfeit drugs.

John M. Taylor III, FDA associate administrator for regulatory affairs, told a Senate Commerce, Science, and Transportation Committee on November 20, 2003, that the Internet has made it virtually impossible to ensure the origin of any drug purchased on the Web.²⁴ In fact, the FDA says that counterfeit drugs account for 10% of all drugs sold in this country.²⁵

The problem is not confined to fake pills. Anyone who drives a car, flies in an airplane, or uses a cell phone may be exposed to substandard, cheap, counterfeit parts that undermine safety and put all users at risk.

Investigators in New York City recently busted six auto parts dealers in Queens and Manhattan charged with selling potentially dangerous knockoffs as name brands such as Ford and Chrysler. The bogus parts from the Middle East and China included ignition coils, sway bars, and brake pads that can wear out faster than more expensive name-brand parts, investigators said. More than \$700,000 of fake parts were seized.²⁶



But that is most likely just the tip of the iceberg.

Sales of counterfeit replacement auto parts and components cost the global auto industry \$12 billion a year, according to

the Motor & Equipment Manufacturers Association

(MEMA).²⁷ And the toll

in human lives and increased insurance rates are not included in that global \$12 billion total.

While it is still the safest form of travel, a *Business Week* investigation found that bogus airplane parts played a role in at least 166 U.S.-based accidents or mishaps during a recent 20-year period.²⁸ And these are only the cases that could be attributed to fakes—the problem may be much worse.

Take the case of fake batteries. It's not just fraud. It's downright dangerous. The problem of exploding batteries is growing with the increased popularity of cell phones. Over the past two years, federal safety officials have received 83 reports of cell phones exploding or catching fire. These incidents usually are caused by incompatible or counterfeit batteries, officials say. Recently, Kyocera Wireless Corp. recalled 1 million batteries. Two other recalls were attributed to suppliers bringing counterfeits into the distribution chain.²⁹

Again, that may be just the tip of the iceberg.

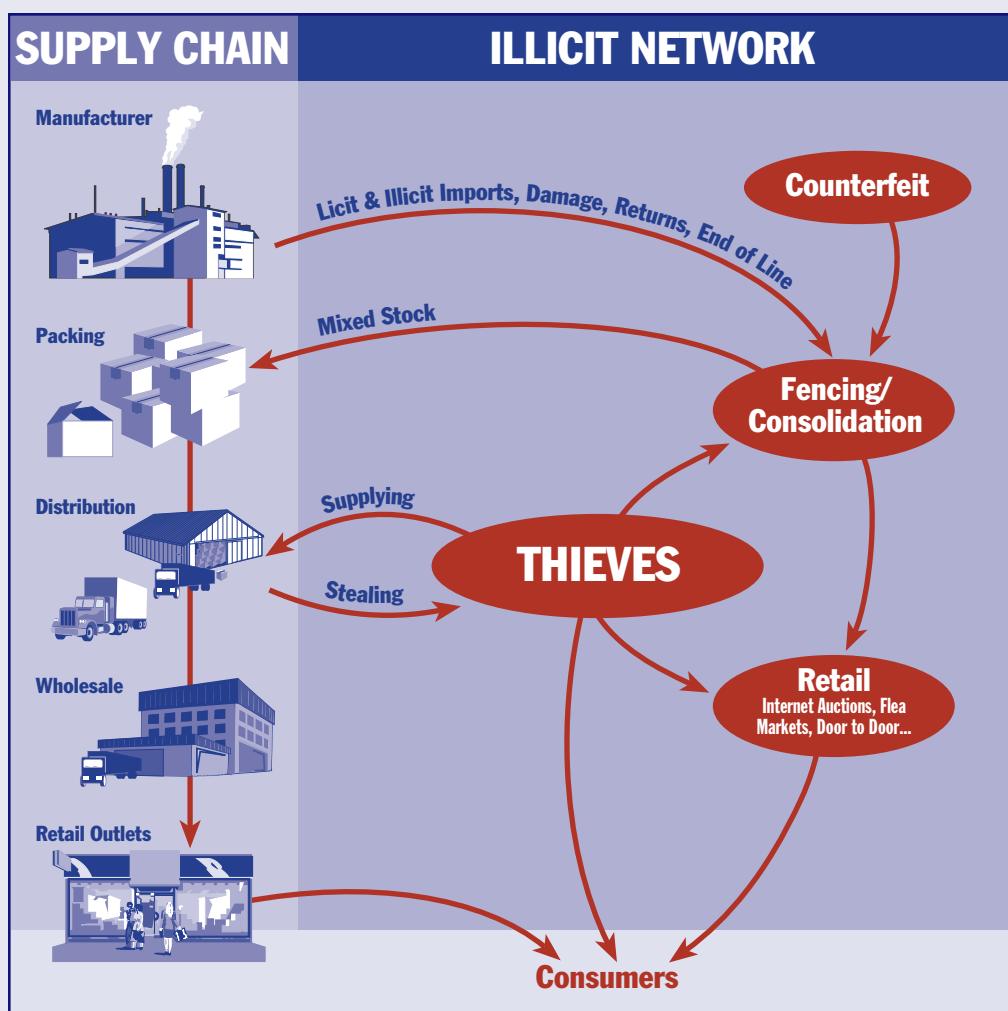
During just one crackdown in one week in China, more than 1 million fake Duracell batteries were seized, according to the Gillette Co.³⁰

It's not just batteries. It's faulty and dangerous knock-off children's toys, computer games, substandard sneakers, crayons, and children's jewelry, among other products. A recent *Consumer Reports* survey of products at more than a dozen stores in five states found

that one out of every three toys purchased contained some violation of child safety standards.³¹

The fakes are becoming tougher to spot. European and U.S. customs are increasingly seizing “disassembled” goods, or components of a product, such as labels, bottles, and corks. The counterfeiters ship the components into the importing country separately. Then they, or a third party,

assemble the finished product for final distribution within the importing country.³² This is a legal loophole that law enforcement is trying to close. But it's not easy. Tough enforcement also requires cooperation from the countries of origin. Such cooperation, law enforcement experts say, often requires delicate diplomacy between the United States and the countries that compete vigorously with us in the global marketplace.



Source: "The Illicit Market in Stolen Fast-Moving Consumer Goods: A Global Impact Study."
Courtesy of the Gillette Co., 2004

Fakes are infiltrating the supply chain and making their way into legitimate retail outlets.

THE LOSS OF JOBS

Good-paying jobs are the lifeblood of our nation's economy. Increasingly, counterfeiters and pirates are sapping that lifeblood through illegal products that are costing this country's workers their livelihood. One illegally downloaded version of a bootleg CD represents not just the loss of one \$12.95 CD sale. It costs various musicians, songwriters, producers, stagehands, distribution and warehouse workers, transportation industry workers, sales personnel, and other people part of their support.

Industries as diverse as software designers to baby formula manufacturers estimate that they have lost more than 750,000 American jobs because of the cost of IP theft and other counterfeit goods and products.³³

The Commerce Department says that the auto industry in this country could hire 200,000 additional workers if the sale of counterfeit auto parts were eliminated.³⁴ But it's not confined to this industry. Counterfeiting and piracy cost jobs in heavy manufacturing industries such as farm and industrial equipment; consumer

goods industries such as clothing and footwear; and medicines, even birth control pills.

Few industries have been hit harder by piracy than the software sector. Worldwide, 36% of the software installed on computers in 2003 was fake, according to a survey by the Business Software Alliance and the IDC research firm.

The Business Software Alliance says that a 10 percentage point reduction in worldwide computer piracy rates could add \$400 billion to the legitimate global economy. That would generate 1.5 million jobs, as well as \$64 billion in additional taxes.³⁵

The United States and Canada actually have the lowest software piracy rate in the world, according to these groups. The North American computer piracy rate in software is 23%. That compares to 36% worldwide. The top two computer software piracy countries are China and Vietnam, each at 92%. Given the growth of the software business in those Far East countries' economies, one wonders how long North America can maintain its 23% rate.³⁶



Did You Know?

In 2003, more than 66% of goods seized by the U.S. Customs Service at ports of entry into this country were traced to China.³⁷

So What's Being Done?

The U.S. Chamber of Commerce, the world's largest business federation, is uniquely qualified to lead the fight against these global pirates. Indeed, it has already begun the fight.

Because of its stature in representing more than 3 million businesses and organizations of every size, sector, and region of the country, the Chamber has been called to global action.

The Chamber is ideally suited to coordinate a tailored, effective solution to this growing menace. That's because the Chamber does not speak on behalf of just one industry; it addresses the issue as impacting all businesses. It sees the big picture and how this problem affects all Americans and the entire business community. It has a coherent



More than 750,000 American jobs across all sectors have been lost due to counterfeiting.



strategy that cuts across all business lines and industries.

"The U.S. Chamber has developed an attainable, results-oriented action plan," says Brad Huther, director of the Chamber's Anti-Counterfeiting and Piracy Initiative. This action plan is producing tangible results. It is educating American businesses and consumers about the scope of the problem. It is raising the issue in corridors of power in Washington. It is tackling the issue head-on in a proactive manner with all the resources the Chamber can bring to the table.

A NATIONAL PRIORITY

In fact, the Chamber is helping to make counterfeiting and piracy a national priority.

In October 2004, the government announced the *Strategy Targeting Organized Piracy (STOP)*. According to a joint government press release, this cross-agency undertaking is "the most comprehensive initiative ever advanced to smash the criminal networks that traffic in fakes, stop trade in pirated and counterfeit goods at America's borders, block bogus goods around the world, and help small businesses secure and enforce their rights in overseas markets."³⁸

What does STOP do? It is raising the stakes for international counterfeiters and pirates by casting a wider, tighter net for counterfeit goods entering this country. Disparate agencies are comparing notes and cracking down on these crooks.

And individual agencies are taking action. The Justice Department's Task Force on Intellectual Property provided recommendations to strengthen the protection of these valuable assets. Some have already been implemented.

For instance, Justice is adding new resources to its three-year-old Computer Hacking and Intellectual Property (CHIP) Units, resulting in an increased crackdown on such crimes. In 2003 (the first full year in which all CHIP Units were operational), charges increased by 46% over the average number in each of the four years prior to the formation of these units. More CHIP Units are on the way.³⁹

SUCCESS IN COORDINATION

In addition to raising the profile on a national level, the Chamber is working to coordinate the



business community's efforts. The Chamber-led CACP was formed to coordinate the business community's efforts and to leverage the use of collective knowledge rather than that of individual entities. CACP is committed to exposing the true cost of counterfeiting and piracy by working with Congress and the administration to drive greater governmentwide efforts to address this global threat.

Beyond Our Borders

The roots of counterfeiting and piracy extend far beyond U.S. borders. And the U.S. Chamber similarly is taking an international approach to the problem.

The Chamber has selected five priority countries to target. The initiative began with China and Brazil and will extend to Russia, Korea, and India. These countries were chosen because of the scope of the problem and the ability to make a measurable difference. In fact, the Chamber already runs bilateral business councils in India, Korea, and Brazil.

Case Study

Let's consider one example:

Pirating a copy of Microsoft Office 2000 may be more profitable than dealing cocaine.

Let's do the math:

A cocaine dealer pays about \$47,000 for a kilo (2.2 pounds) of cocaine. He can sell it on the street for about \$94,000—a 100% return on investment.

That same \$47,000 expenditure can buy 1,500 pirated versions of Microsoft Office 2000. Those bootleg versions can fetch \$423,000—or a 900% return on investment.

If you were a smart criminal—and that is not an oxymoron in these endeavors—where would you put your seed capital?

And it's happening every day somewhere in the world. In 2003, the world spent more than \$50 billion (U.S. dollars) on

commercially packaged software that runs on personal computers.

Yet software worth almost \$80 billion was actually installed, according to the Business Software Alliance.⁴⁰

This translates into an equation that makes dollars but no sense: for every two dollars' worth of software purchased legitimately, one dollar's worth was obtained illegally. That's a worldwide piracy rate of 36% in 2003.

The United States actually has one of the lowest software piracy rates—and even here it is 23%. But what business or industry can continue to prosper with a theft rate of nearly one of every four dollars?

Around the world the problem is more acute. In China and Vietnam, the software piracy rate is 92% each. In Ukraine, it's 91%. Think about it: 9 of every 10 pieces of software sold in those countries is obtained illegally!⁴¹

The business community must work together and with government to solve this problem.





China is Job One.

In 2003, more than 66% of goods seized by the U.S. Customs Service at ports of entry into this country were traced to China.⁴²

"China has failed to adequately enforce its own laws and regulations when it comes to piracy and counterfeiting violations," says Myron Brilliant, Chamber vice president for East Asia. "This is an endemic problem with immense consequences for the U.S. economy, our companies, particularly small and medium-size businesses, and public safety. We remain committed to constructive engagement with the Chinese government on this and other concerns," Brilliant continues. "But China must move beyond words to actions that crack down on IPR infringements in accordance with its WTO [World Trade Organization] commitments."

Accordingly, China is the Chamber's top priority in this initiative's international efforts. The objectives are to

- ensure deterrent-level criminal and administrative penalties for IP violations,

- increase IP enforcement coordination at central and provincial areas,
- promote consumer awareness and curtail availability of pirated goods through border crackdowns,
- secure China's ratification of WIPO Internet treaties, and
- increase the market for legitimate goods.

In light of increasing international cooperation on IPR enforcement issues in China, the Chamber has organized an ad hoc coalition comprising key business organizations in the United States, Canada, China, Japan, and the European Union in an effort to fight against the existing high level of counterfeiting and piracy. Together, these organizations will present a united front in fighting the growing problem in China.

In addition, the Chamber has established a ground presence in China to support its anti-counterfeiting and piracy activities. In 2005, the Chamber is initiating best practices seminars with local enforcement agencies to foster educational efforts and to continue

Success Story

There is no question there have been successes. In April 2004, a Ukrainian man was charged with illegally distributing millions of dollars worth of unauthorized copies of software from Microsoft, Adobe, Autodesk, Borland, and Macromedia. In September 2004, more than \$56 million in counterfeit Microsoft software was seized, and 11 people in California, Texas, and Washington state were charged with manufacturing counterfeit software and counterfeit packaging.⁴³



dialogue with Chinese government officials to ensure that there is movement on the development of clarified legal standards for pursuing greater criminal prosecution of IP infringers and that deterrent-level penalties are applied routinely.

 Brazil is next—there are fundamental differences between how it and the U.S. view counterfeiting and piracy. The Chamber's Brazil program seeks to encourage government and private sector leaders to build on recent positive steps towards greater protection.

The Chamber is developing the baseline data to measure the scope of the problem. In 2004, it produced the

most comprehensive survey ever on the economic impact of IPR theft on the Brazilian economy. The Chamber established a benchmark for its anti-piracy efforts and the fiscal impacts of piracy, counterfeiting, and the gray market in Brazil.



To stop this problem, we must address it where it starts.



The Brazil-U.S. Business Council estimates that at least \$1.6 billion in sales are lost annually to counterfeiting and piracy. The Chamber is conducting a similar study in 2005 to measure progress.

The Chamber is also making a difference in Brazil's government. It has hired on-the-ground resources to maintain constant focus on this issue. It also increases the connection with U.S. Congress by conducting missions to the country.

India, Korea, and Russia are next. The foundation has already been laid through executive missions, training programs, high-level government contact, and research. And the Chamber's initiative doesn't stop with these countries. It is committed to fighting counterfeiting and piracy wherever it starts.

THE ROLE OF LAW ENFORCEMENT

In general, law enforcement does not treat IPR crimes as a high priority. In fact, law enforcement does not always investigate IPR cases. Even when investigations are begun, they tend to be "seizure-based" and do not extend to the onward flow of money.

The U.S. Chamber is working with the Department of Homeland Security's (DHS's) Immigration and Customs Enforcement and Customs and Border Protection units to increase awareness of this matter.

The Chamber plays a key role in helping DHS and other government agencies deliver their messages to the business community through its IP Roundtable Series, featuring senior officials. DHS continues to turn to the Chamber as a resource to create a dialogue between the public and private sectors.⁴⁴

Looking ahead in enforcement, the Chamber will play a coordinator role among various government agencies and will entreat Congress to pass comprehensive

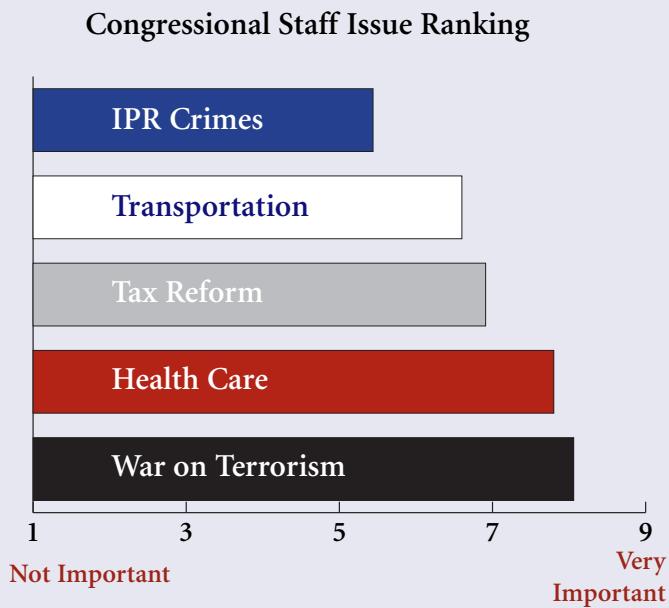
legislation to close existing loopholes. It also applauds the recent appointment of the IP "czar" within the Commerce Department to address the problem.

WHAT DOES CONGRESS THINK?

A recent survey conducted for the Chamber by The Winston Group confirmed that counterfeiting and piracy are not yet seriously on the radar of most members of Congress. The survey of more than 100 Capitol Hill staffers found that there is not a clear definition of IP crimes and counterfeiting among Hill staff. Moreover, the majority viewed IP crimes as a problem but not a priority for the country. Only 34% believed that penalties for IP crimes should always be enforced, while 64% believed that penalties should be enforced either in most cases or in the most severe cases.

Perhaps most telling, only 9% of Hill staffers considered themselves "very informed" on this issue. Some 6% reported that they felt "minimal action" was needed in





IP violations.⁴⁵ Indeed, in a world where daily headlines scream of terrorist threats and other stresses of modern-day life, IPR crimes do not rate highly on Capitol Hill, according to the Chamber survey.

Congressional staffers, when asked what issues Congress is considering in the upcoming legislative cycle, rated IPR crimes 5.44 on a scale of importance from 1 to 9 (1 being not important, 5 being neutral, and 9 being very important). That compared to 6.6 for transportation, 6.91 for tax reform, 7.8 for health care, and 8.06 for the war on terrorism.⁴⁶

WHAT IS BEING DONE TO CHANGE OPINION?

The Chamber is committed to changing these opinions. It has begun a multi-channel education campaign to reach lawmakers, the media, and businesses. In

addition to the formation of CACP, the Chamber continues to deliver its message at every opportunity to generate awareness of the initiative and to expand its reach by encouraging grassroots support and communication with its members on the scope and depth of the problem. Internationally, the Chamber is working with many organizations to curb counterfeiting and piracy. The Chamber's structure with its network of 99 AmChams in 86 countries worldwide makes it uniquely organized to manage and coordinate this effort.

Education is a key component of the Chamber's effort—and a major challenge. Chamber executives believe that increasing awareness is crucial because, unlike other criminal activity, the average consumer—and perhaps lawmaker—does not see counterfeiting as a threat to the economy, jobs, or public safety.⁴⁷

Congress and law enforcement must dedicate the resources necessary to fight counterfeit-ing and piracy.

In Closing

The problem of counterfeiting and piracy is more than just simple thievery, experts say. It involves much larger issues of fairness, competition, lost jobs and tax revenue, product safety, and the legitimacy of world brands. It also envelops a larger web that helps finance international terrorists as well as organized crime networks. Basic economics and today's modern technology would indicate that the problem of counterfeiting and piracy is not going away anytime soon.

In the past year, the Office of the U.S. Trade Representative and the U.S. Departments of State, Commerce, Justice, and Homeland Security's joint STOP initiative has begun looking at how to combat the trade of pirated and counterfeit goods at America's borders more effectively and to halt trade in bogus goods around the world. The government is working with the private sector to keep fakes out of global supply chains and to dismantle criminal enterprises that steal intellectual property. It is trying to tighten the global noose on IP

thieves by seeking agreements with countries to block the trade in pirated and counterfeit goods.

While STOP is a good start, it's only a start. Clearly, much more needs to be done at all levels of business, government, and international treaties to halt this growing global menace.

THE BOTTOM LINE

It is no longer acceptable to consider the problem of counterfeiting and piracy as merely another cost of doing business. This is a modern-day scourge that is spiraling out of control. It has the potential to destroy industries and risks the economic underpinnings and future of all types of U.S. business.

The goal of the Chamber's initiative is simple—to make the world a miserable place for modern-day pirates and a safer place for consumers and businesses. Nothing short of that is acceptable.



Endnotes

¹ Associated Press, November 24, 2004.

² "The Links Between Intellectual Property Crime and Terrorist Financing," testimony of Ronald K. Noble, Secretary General of Interpol, to House of Representatives Committee on International Relations, Washington, D.C., 108th Congress, July 16, 2003.

³ "Stuck on You: A Tiny Glue Seller Claims Identity Theft," *The Wall Street Journal*, November 22, 2004.

⁴ International Chamber of Commerce Commercial Crimes Services, *A Brief Overview of Counterfeiting*, July 2004.

⁵ U.S. Customs and Border Protection, press release, May 29, 2002.

⁶ "Fighting the Fakers," *The Engineer*, April 16, 2002; Philip Broussard, "Dangerous Fakes," *World Press Review*, January 1999.

⁷ "Fakes!" *Business Week* cover story, February 7, 2005.

⁸ Attorney General John Ashcroft, in prepared remarks to U.S. Chamber of Commerce, October 19, 2004.

⁹ Reuters, July 1, 2004.

¹⁰ Attorney General John Ashcroft in prepared remarks to the U.S. Chamber of Commerce, October 19, 2004.

¹¹ Interview, Rick Lane, vice president of government affairs for News Corp., parent company of Fox Television and DirecTV, October 2004.

¹² *Bootleg Billions: The Impact of the Counterfeit Goods Trade on New York City*, New York City Office of the Comptroller, November 22, 2004.

¹³ George W. Abbott Jr. and Lee S. Sporn, *Trademark Counterfeiting*, 2001.

¹⁴ "The Handbag? A Total Knockoff. The Cost to New York? All Too Real," *The New York Times*, November 23, 2004.

¹⁵ *Pharmaceutical Technology Europe*, September 1, 2003.

Get Involved.

Become part of the solution.
Contact the Chamber to find out
how to get involved.

202-463-5500 (phone)
counterfeiting@uschamber.com (e-mail)



The goal of the Chamber's initiative is simple—to make the world a miserable place for modern-day pirates and a safer place for consumers and businesses. Nothing short of that is acceptable.

¹⁶ "Facts on Fakes," International AntiCounterfeiting Coalition, www.iacc.org.

¹⁷ *Business Journal of Portland*, April 12, 2003.

¹⁸ *Detroit News*, October 2, 2003.

¹⁹ "Issues," Recording Industry of America, August 8, 2004.

²⁰ Motion Picture Association of America, <http://www.mpaa.org/anti-piracy>, October 27, 2004.

²¹ "The Links Between Intellectual Property Crime and Terrorist Financing," testimony of Ronald K. Noble, Secretary General of Interpol, to House of Representatives Committee on International Relations, Washington, D.C., 108th Congress, July 16, 2003.

²² Ibid.

²³ Matthew Benjamin, "A World of Fakes," *U.S. News and World Report*, July 14, 2003.

²⁴ Testimony of John M. Taylor III, FDA associate commissioner for regulatory affairs, before a Senate Commerce, Science and Transportation Committee hearing on pharmaceuticals, November 20, 2003.

²⁵ Food and Drug Administration white paper on counterfeit drugs, 2003.

²⁶ Scott Shifrel, "Car dealers busted in scam," *New York Daily News*, December 1, 2004.

²⁷ Ed Garsten, "Fake Parts Hobble Car Industry," *Detroit News*, October 2, 2003.

²⁸ Willy Stern, *Business Week* cover story, June 10, 1996.

²⁹ "Cell Phone Batteries Explode, Causing Recalls," Associated Press, November 24, 2004.

³⁰ Testimony of Richard K. Willard, senior vice president and general counsel of Gillette Co., to the Senate Judiciary Committee, March 23, 2004.

³¹ "Hazards in Aisle Five," *Consumer Reports*, November 2004.

³² "Campaigning Against the Trade in Fakes," Anti-Counterfeiting Group fact sheet, 2004, info@a-cg.com.

³³ First Global Conference on Combating Counterfeiting, May 25-26, 2004, www.anti-counterfeitcongress.org.

³⁴ Tom Nash, "Counterfeit Parts: A Poor Fit for Your Shop," *Motor Magazine*, January 2004.

³⁵ First Annual Business Software Alliance and IDC Global Software Study, July 2004.

³⁶ Ibid.

³⁷ U.S. Trade Representative 2004 "Special 301" annual review, May 2004.

³⁸ Press release jointly issued by Departments of Justice, Commerce, Homeland Security, and State, October 2004.

³⁹ "Report of the Department of Justice's Task Force on Intellectual Property," U.S. Department of Justice, October 2004.

⁴⁰ First Annual Business Software Alliance and IDC Global Software Study, July 2004.

⁴¹ Ibid.

⁴² U.S. Trade Representative 2004 "Special 301" annual review, May 2004.

⁴³ First Annual Business Software Alliance and IDC Global Software Study, July 2004.

⁴⁴ U.S. Chamber of Commerce Global Anti-Counterfeiting Initiative, October 2004, www.uschamber.com.

⁴⁵ Intellectual Property Survey by the Winston Group, commissioned by U.S. Chamber of Commerce, preliminary findings, October 2004.

⁴⁶ Ibid.

⁴⁷ U.S. Chamber of Commerce Global Anti-Counterfeiting Initiative, www.uschamber.com.



U.S. Chamber of Commerce

1615 H Street, N.W. | Washington, D.C. 20062

www.uschamber.com

202-463-5500 (phone) | 202-463-3129 (fax)

rev 8/05
0342